

AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي		UNIÃO AFRICANA
UNIÓN AFRICANA		UMOJA WA AFRIKA
AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES		

THE MATTER OF

FEA CHARLES AND OTHERS

v.

REPUBLIC OF CÔTE D'IVOIRE

**APPLICATIONS NOS. 028/2019, 030/2019, 031/2019, 033/2019,
047/2019, 051/2019 and 053/2019
(CONSOLIDATED APPLICATIONS)**

RULING

24 SEPTEMBER 2026



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The Court, composed of: Blaise TCHIKAYA, President; Chafika BENSAOULA, Vice-President; Rafaâ BEN ACHOUR, Suzanne MENGUE, Tujilane R. CHIZUMILA, Stella I. ANUKAM, Imani D. ABOUD, Dumisa B. NTSEBEZA, Modibo SACKO, Dennis D. ADJEI, Duncan GASWAGA – Judges; and Robert ENO, Registrar.

In the matter of:

Charles FEA, Gueu Louapou CHRISTIAN, Diomande Aboubakar SIDIKI, Traoré ABOULAYE, Aday Tano Alain CHRISTIAN, Kpea Albert DAMAS and Badiène MOUSSA

Represented by

Advocate Schadrack RUYENZI, a Member of the Rwandan Bar Association, and International Law Chamber for the Defence of Human Rights

Versus

REPUBLIC OF CÔTE D'IVOIRE

Represented by:

- i. Mr Constant ZIRIGNON DELBE – Magistrate, Technical Advisor to the Minister of Justice, Minister of Justice and Human Rights;
- ii. Mr Abdoulaye MEITE BEN, Advocate of the Bar of Côte d'Ivoire ;
- iii. Mr Mamadou SAMASSI, Advocate at the Court of Appeal of Abidjan;
- iv. Mr Advocate Patrice D. GUEU, Advocate at the Court of Appeal of Abidjan;
- v. Advocate Mamadou KONE, Advocate at the Court of Appeal of Abidjan.

After deliberation,

Issues this Ruling:

I. THE PARTIES

1. Fea Charles, Gueu Louapou Christian, Diomande Aboubakar Sidiki, Traoré Aboulaye, Adae Tano Alain Christian, Kpea Albert Damas, are all Ivorian nationals while Badiène Moussa is a national of Burkina Faso. They are jointly referred to hereinafter as (“the Applicants”). At the time of filing the present Application, Fea Charles, Gueu Louapou Christian, Diomande Aboubakar Sidiki, Traoré Aboulaye and Adae Tano Alain Christian were serving a twenty (20)-year prison sentence for criminal conspiracy, armed robbery and unlawful possession of firearms, whilst Kpea Albert Damas and Badiène Moussa had been acquitted of these charges on appeal. They allege violation of their human rights in connection with proceedings before domestic courts.
2. The Application is filed against the Republic of Côte d’Ivoire (hereinafter referred to as “the Respondent State”), which became a Party to the African Charter on Human and Peoples’ Rights (hereinafter referred to as “the Charter”) on 31 March 1992, and to the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights (hereinafter referred to as “the Protocol”) on 25 January 2004. The Respondent State also deposited, on 23 July 2013, the Declaration provided for in Article 34(6) of the Protocol (hereinafter referred to as “the Declaration”), by virtue of which it accepted the jurisdiction of the Court to receive applications from individuals and Non-Governmental Organisations having observer status before the African Commission on Human and Peoples’ Rights. On 29 April 2020, the Respondent State deposited with the Chairperson of the African Union Commission the instrument of withdrawal of the said Declaration. The Court ruled that the said withdrawal has no bearing on pending or new applications filed before the withdrawal took effect one year after the deposit of the instrument thereof, in this case, on 30 April 2021.¹

¹ *Kouadio Kobena Fory v. Côte d’Ivoire* (judgment) (2 December 2021) 5 AfCLR 682, §. 2; *Suy Bi Gohore Emile & ors v Côte d’Ivoire* (judgment) (15 July 2020) 4 AfCLR 406, §. 67.

II. SUBJECT OF THE APPLICATION

A. Facts of the matter

3. The Applicants aver that they were arrested and held in police custody in connection with investigations conducted in 2012 into armed robberies committed in hotels in certain neighbourhoods of the Yopougon municipality of Abidjan. They were subsequently brought before the Public Prosecutor at the Yopougon Court of First Instance who requested the investigating judge to open a judicial investigation against them for armed robbery, criminal conspiracy and unlawful possession of firearms. According to the Applicants, the investigating judge charged them with the aforementioned offences and, having concluded the investigation, committed them to trial before the Yopougon Court of First Instance.
4. On 6 July 2012, the Yopougon Court of First Instance found the Applicants guilty as charged and sentenced them to twenty (20) years' imprisonment each. The Applicants appealed the said judgment before the Abidjan Court of Appeal.
5. By judgment of 3 July 2013, the Abidjan Court of Appeal upheld the convictions of Fea Charles, Gueu Louapou Christian, Adae Tano Alain Christian, Diomandé Aboubacar Sidiki and Traoré Abdoulaye. It however quashed the judgment in respect of Badienne Moussa and Kpea Albert Damas, and acquitted them.

B. Alleged violations

6. The Applicants allege violation of the following rights:
 - i. The right not to be subjected to torture or to cruel, inhuman or degrading punishment and treatment, protected by Article 5 of the Charter;

- ii. The right to liberty and security of the human person, protected by Article 6 of the Charter;
- iii. The right to a fair trial, in particular:
 - a. the right to an appeal to competent national courts against any acts violating the fundamental rights recognised and guaranteed by conventions, laws, regulations and customs in force, protected by Article 7(1)(a) of the Charter;
 - b. the right to be presumed innocent until proven guilty by an impartial court, protected by Article 7(1)(b) of the Charter;
 - c. the right to defence, including the right to be assisted by counsel of one's choice, protected by Article 7(1)(c) of the Charter;
 - d. the right to respect for the principle of adversarial proceedings, as provided for in Article 14 of the International Covenant on Civil and Political Rights (hereinafter the "ICCPR").;
 - e. the right to respect for the principle of proportionality of penalties, as provided for in Article 15(1) of the ICCPR;
- iv. The right to protection of the dignity of detainees, in accordance with Article 10(1) of the ICCPR.

III. SUMMARY OF THE PROCEDURE BEFORE THE COURT

- 7. On 22 July 2019, Fea Charles, Badienne Moussa, Gueu Louapou Christian and Albert Damas filed their Applications with the Registry.
- 8. On 16 September 2019, Diomandé Aboubakar Sidiki, Traoré Aboulaye and Adae Tano Alain Christian filed their Applications with the Registry.
- 9. On 2 December 2019, the Court issued an order consolidating the Applications.
- 10. The Respondent State filed its Response on 29 January 2020
- 11. Pleadings were closed on 30 June 2022 and the Parties were duly notified.

IV. PRAYERS OF THE APPLICANTS

12. The Applicants pray the Court to:

- i. Declare that the Republic of Côte d'Ivoire violated their fundamental rights;
- ii. Order the Respondent State to grant them a presidential pardon or parole;
- iii. Award pecuniary reparations for the harm suffered as a result of their unlawful imprisonment.

V. JURISDICTION

13. The Court notes that Article 3 of the Protocol provides:

1. The jurisdiction of the Court shall extend to all cases and disputes submitted to it concerning the interpretation and application of the Charter, this Protocol and any other relevant Human Rights instrument ratified by the States concerned.
2. In the event of a dispute as to whether the Court has jurisdiction, the Court shall decide.

14. Under Rule 49(1) of the Rules, "The Court shall ascertain its jurisdiction and the admissibility of an Application in accordance with the Charter, the Protocol and these Rules".

15. In light of the aforementioned provisions, the Court must, in every application, conduct a preliminary examination of its jurisdiction and rule on any objections thereto, if any.

16. The Court notes that the Respondent State does not raise any objection to its jurisdiction. However, in accordance with Rule 49(1) of the Rules, it must ensure that all requirements relating to all aspects of its jurisdiction are met.

17. Having found that there is nothing on the record to suggest that it lacks jurisdiction, the Court finds that it has:

- i. Material jurisdiction, insofar as the Applicants allege violation of human rights protected by the Charter and the ICCPR,² human rights instruments to which the Respondent State is a Party.
- ii. Personal jurisdiction, insofar as the Respondent State deposited the Declaration on 23 July 2013, as indicated in paragraph 2 above. On 29 April 2020, it deposited the instrument of withdrawal of the said Declaration. In this regard, the Court reiterates its jurisprudence cited above, that the withdrawal of the Declaration has no retroactive effect and has no bearing on cases pending prior to the withdrawal, or on new cases filed before the withdrawal takes effect, one year after the deposit of the instrument thereof, in this case, on 30 April 2021. The present Application, having been filed on 19 February 2021, that is, two months and eleven days before the withdrawal of the Declaration took effect, is therefore not affected by it.
- iii. Temporal jurisdiction, insofar as the violations alleged by the Applicants occurred after the Respondent State became a Party to the Protocol.³
- iv. Territorial jurisdiction, insofar as the alleged violations occurred on the territory of the Respondent State.

18. In the light of the foregoing, the Court finds that it has jurisdiction to hear the present Application.

² *Alex Thomas v. United Republic of Tanzania* (judgment) (20 November 2015) 1 AfCLR 465, § 45; *Kouassi Kouamé Patrice and Baba Sylla v. Republic of Côte d'Ivoire*, AfCHPR, Application No. 015/2021, Judgment of 22 September 2022 (merits and reparations), § 23; *Kouadio Kobena Fory v. Republic of Côte d'Ivoire* (judgment) (2 December 2021) 5 AfCLR 616, § 26.

³ *Fory v. Côte d'Ivoire*, *supra*, § 27.

VI. ADMISSIBILITY

19. Article 6(2) of the Protocol provides:

The Court shall rule on the admissibility of cases, taking into account the provisions of Article 56 of the Charter.

20. Under Rule 50(1) the Rules,

The Court shall ascertain the admissibility of any Application [...] in accordance with Article 56 of the Charter, Article 6(2) of the Protocol and these Rules.

21. Rule 50(2) of the Rules, which restates the provisions of Article 56 of the Charter, provides:

Applications filed before the Court shall comply with all of the following conditions:

- a. Indicate their authors even if the latter request anonymity,
- b. Are compatible with the Constitutive Act of the African Union and with the Charter;
- c. Are not written in disparaging or insulting language directed against the State concerned and its institutions or the African Union;
- d. Are not based exclusively on news disseminated through the mass media;
- e. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;
- f. Are submitted within a reasonable time from the date local remedies were exhausted or from the date set by the Court as being the commencement of the time limit within which it shall be seized with the matter, and
- g. Do not deal with cases which have been settled by those States involved in accordance with the principles of the Charter of the

United Nations, or the Charter of the Organization of African Unity or the provisions of the Charter.

22. The Court notes that, in the present case, the Respondent State raises an objection to admissibility of the Application based on non-exhaustion of local remedies. The Court will rule on this objection before examining the other admissibility requirements, if necessary.

A. Objection based on non-exhaustion of local remedies

23. The Respondent State raises an objection to the admissibility of the Application based on failure by the Applicants to exhaust local remedies, arguing that it was not afforded the opportunity to remedy the alleged violations insofar as the matter was never brought before its courts. It emphasises that the requirement of exhaustion of local remedies allows its higher courts to rectify the errors of lower courts.
24. The Respondent State specifically contends that the Applicants were required to file a cassation appeal before the Cassation Court to challenge the judgment of the Abidjan Court of Appeal, in accordance with Article 571 of the Code of Criminal Procedure (CCP).
25. The Respondent State further argues that the Applicants failed to seek legal aid at both the trial and appeal stages, thereby undermining their argument that they were unaware of the right to appeal the impugned judgment before the Cassation Court.
26. The Applicants aver that they did not pursue further remedies for reasons beyond their control, including the lack of legal aid which, they claim, prevented them from being apprised of the existence of the appellate remedy, thereby effectively barring access thereto. They further contend that, in any event, such an appeal was bound to fail as it is not effective.

27. The Court notes that, under Article 56(5) of the Charter as restated in Rule 50(2) of the Rules, applications brought before it must be filed after exhaustion of local remedies where such remedies exist, unless the proceedings thereof are unduly prolonged.
28. The Court observes that the remedies to be exhausted are judicial remedies. They must, furthermore, be effective and sufficient, in the sense that they are capable of remedying the situation in question.⁴ It is settled jurisprudence that this requirement is waived only where the remedies fall short or where they are unduly prolonged.⁵
29. The Court further notes that it has consistently held that it assesses the exhaustion of local remedies in the light of the specific circumstances of each case, taking into account the remedies available under the judicial system of the Respondent State⁶.
30. In the present case, the Court observes that the Applicants concede that they did not file a cassation appeal against the judgment of the Abidjan Court of Appeal. They advance, in justification thereof, that they did not benefit from the services of a legal counsel, ; therefore, they were ignorant of the existence of the said remedy. They further contend, in the alternative, that the remedy would have been neither effective nor sufficient.

⁴ *N'Guessan Yao Ange v. Republic of Côte d'Ivoire*, AfCHPR, Application No. 034/2019, judgment of 5 February 2025 (jurisdiction and admissibility), § 26; *Safinaz Ben Ali and Lamia Jendoub*, AfCHPR, Application No. 009/2023, judgment of 3 September 2024 (jurisdiction and admissibility), § 50; *Lohé Issa Konaté v. Burkina Faso* (merits) (5 December 2014) 1 AfCLR 314, § 108; *Sébastien Germain Marie Aïkoué Ajavon v. Republic of Benin* (jurisdiction and admissibility) (2 December 2021) 5 AfCLR 93, § 73.

⁵ *Kijiji Isiaga v. United Republic of Tanzania* (merits) (21 March 2018) 2 AfCLR 218, § 44; *African Commission on Human and Peoples' Rights v. Republic of Kenya* (merits) (26 May 2017) 2 AfCLR 9, §§ 93–94; *N'Guessan v. Côte d'Ivoire*, *supra*, § 26.

⁶ *Sébastien Germain Marie Aïkoué Ajavon v. Republic of Benin* (merits) (29 March 2019) 3 AfCLR 130, § 110.

31. The Court observes that it has consistently held that, within the judicial system of the Respondent State, a cassation appeal before the Cassation Court is an available, effective and sufficient remedy.⁷
32. The Court further reiterates, in line with its established jurisprudence, that the lack of legal representation or awareness of the existence of a remedy cannot justify the failure to exhaust that remedy,⁸ as “ignorance of the law is not a defence”. The Court further notes that an applicant cannot merely allege that a remedy is ineffective but must, at least, attempt to exhaust it.⁹
33. In view of the foregoing, the Court finds that the Applicants did not exhaust local remedies and consequently, that the Application does not meet the admissibility requirement under Article 56(5) of the Charter, as restated in Rule 50(2)(e) of the Rules.

B. Other admissibility requirements

34. The Court recalls that the admissibility requirements are cumulative, such that if any one of them is not met, the Application is inadmissible.¹⁰ Having found that the Applicants did not exhaust local remedies, the Court considers it superfluous to rule on the other admissibility requirements under Article 56(1)(2)(3)(4)(6) and (7) of the Charter, as restated in Rule 50(2)(a)(b)(c)(d)(f)(g) of the Rules.
35. In view of the foregoing, the Court declares the Application inadmissible.

⁷ *N’Guessan v. Côte d’Ivoire*, *ibid*, § 29.

⁸ *Ibid*, § 30.

⁹ *Moussa Doumbia v. Republic of Côte d’Ivoire*, AfCHPR, Application No. 029/2019, judgment of 13 September 2024 (jurisdiction and admissibility), § 30.

¹⁰ *Aminata Soumaré v. Republic of Mali*, AfCHPR, Application No. 038/2019, judgment of 5 September 2023, (jurisdiction and admissibility), § 47.

VII. COSTS

36. The Applicants pray the Court that the costs should be borne by the Respondent State.
37. The Respondent State does not submit on costs.

38. Under Rule 32(2) of the Rules, “[u]nless otherwise decided by the Court, each party shall bear its own costs, if any”.
39. The Court notes that, although the Applicants pray that the Respondent State bear the costs of the proceedings, they did not adduce any proof of having incurred such costs.
40. Consequently, the Court considers that there is nothing in the present case to warrant a departure from the provisions of Rule 32(2) of the Rules and therefore decides that each Party shall bear its own costs.

VIII. OPERATIVE PART

41. For these reasons:

THE COURT,

Unanimously,

On jurisdiction

- i. *Declares that it has jurisdiction.*

On admissibility

- ii. *Upholds* the Respondent State's objection to admissibility based on non-exhaustion of local remedies; and
- iii. *Declares* the Application inadmissible.

On costs

- iv. *Orders* that each Party shall bear its own costs.

Signed:

Blaise TCHIKAYA, President;



Chafika BENSOUULA, Vice-President;



Rafaâ BEN ACHOUR, Judge;



Suzanne MENGUE, Judge;



Tujilane R. CHIZUMILA, Judge;



Stella I. ANUKAM, Judge;



Imani D. ABOUD, Judge;



Dumisa B. NTSEBEZA, Judge;



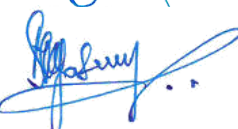
Modibo SACKO, Judge;



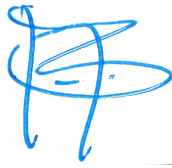
Dennis D. ADJEI, Judge;



Duncan GASWAGA, Judge;



and Robert ENO, Registrar.



Done at Arusha, on this Twenty-Fourth Day of September in the Year Two Thousand and Twenty-Six, in French and English, the French being authoritative.

